



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

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(603) 271-2900 FAX (603) 271-2456



William and Ann Hall
151 Gale Road
Alexandria, NH 03222

**ADMINISTRATIVE ORDER
No. WMD 03-30**

December 3, 2003

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to William and Ann Hall pursuant to RSA 149-M:15, I. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. William and Ann Hall are individuals having a mailing address of 151 Gale Road, Alexandria, NH 03222.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 149-M, DES regulates the management and disposal of solid waste. Pursuant to RSA 149-M:7, the Commissioner of DES has adopted Env-Wm 100 – 300, 2100 *et seq.* ("Solid Waste Rules") to implement this program.
2. William and Ann Hall are the owners of land at 151 Gale Road, Alexandria, NH, more particularly described in a deed recorded in the Grafton County Registry of Deeds at Book 2408, Page 440, and identified on Alexandria Tax Map 411 as Lot 132.02 ("the Site").
3. On July 1, 2003, DES received a complaint alleging that solid waste had been burned and buried at the Site.
4. On August 6, 2003, DES personnel investigated the complaint by conducting an inspection of the Site ("Inspection"). The purpose of the Inspection was to determine William and Ann Hall's compliance status relative to RSA 149-M and the Solid Waste Rules.
5. During the Inspection, DES personnel observed the following:
 - A. A small burn pile on the Northwest portion of the Site. The burn pile contained ash, charred and partial burned pieces of shingles, painted wood, insulation, plywood, flooring, pressure treated lumber, and other assorted wastes.
 - B. Three mobile home trailers in various stages of being dismantled in an area North of the burn pile at the Site.

C. A metal debris pile as well as trailer frames, automobile parts, white goods, and other debris.

D. Burned construction debris and metal debris in the old pit area at the Site.

6. RSA 149-M:4, XXII defines “solid waste” as “any matter consisting of putrescible material, refuse, residue from an air pollution control facility, and other discarded or abandoned material.”

7. RSA 149-M:4, XXI defines “refuse” in part, as “any waste product ... which is composed wholly or partly of such materials as ... brick, plaster or other waste resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance.”

8. Env-Wm 102.42 defines “construction and demolition debris” in part, as “non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.”

9. The shingles, painted wood, insulation, plywood, flooring, pressure treated lumber, mobile home trailers, scrap metal, construction debris and white goods observed by DES personnel at the Site are solid waste as defined by RSA 149-M:4, XXII.

10. RSA 149-M:4, IX defines a “[solid waste] facility” as “a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment or disposal of solid waste.”

The Site constitutes a “solid waste facility” as defined by RSA 149-M:4, IX.

12. Env-Wm 102.116 defines “owner” as “a person who owns a facility or part of a [solid waste] facility.”

13. William and Ann Hall are the owners of a solid waste facility

14. RSA 149-M:9, I states that “No person shall construct, operate or initiate closure of a public or private facility without first obtaining a permit from [DES].”

15. A review of DES files shows William and Ann Hall have not applied for or hold a permit to operate a solid waste facility at any New Hampshire location.

16. RSA 149-M:9, II states that “ It shall be unlawful to transport solid waste to, or to dispose of solid waste at, any facility other than an approved facility.”
17. Solid waste has been disposed at the Site. This Site is not approved to accept solid waste.
18. Env-Wm 2702.02(e) specifies that facilities and practices shall not cause air pollution in violation of federal or state law, any air quality rules implemented by DES, the conditions of any air quality permit issued by DES, or the New Hampshire State Implementation Plan under the Clean Air Act.
19. Env-A 1001.03(c)(4), adopted by the Commissioner of DES, states that the following types of burning shall be permissible without authorization from DES: burning of untreated wood from the construction or demolition of a building, provided that such burning shall be done in an area which shall be specified and approved by officials having jurisdiction over open burning.
20. On June 13, 2003, the local police and fire departments responded to a fire at the Site. The police officer’s report obtained by DES personnel states “I toured the easterly edge of the fire. In doing so I observed scrap metal, plastic, painted/treated lumber, logs in excess of 5” in diameter, stumps and various pieces of household trash/debris in the pile.”
21. William and Ann Hall burned solid waste which did not meet the criteria set forth in Env-A 1001.03(c)(4) at the Site.
22. By letter dated September 8, 2003, DES requested that William and Ann Hall submit a scope of work to DES for the removal of the solid waste, including the partially burned debris by September 19, 2003.
23. On September 18, 2003, Ann Hall contacted DES to request an extension to the September 19, 2003 deadline for the scope of work.
24. By letter dated September 19, 2003, DES granted an extension of October 10, 2003, for the submittal of the scope of work for the clean-up of solid waste at the Site to DES.
25. On October 13, 2003, DES personnel conducted a follow-up visit at the Site to check the conditions at the Site and to discuss the past due scope of work with William and Ann Hall. No one was present at the Site. DES personnel noted no significant changes since the previous Inspection.

D. DETERMINATION OF VIOLATIONS

1. William and Ann Hall have violated RSA 149-M:9, I by operating an unpermitted solid waste facility.
2. William and Ann Hall have violated RSA 149-M:9, II by failing to dispose of solid waste at a permitted solid waste facility.
3. William and Ann Hall have violated Env-Wm 2702.02(e) by burning solid waste other than as allowed by Env-A 1000.

E. ORDER

Based on the above findings, DES hereby orders William and Ann Hall as follows:

1. **Immediately** cease operating an unpermitted solid waste facility.
2. **Immediately** cease accepting and processing any solid waste (e.g. construction and demolition debris, white goods, and mobile home trailers, and scrap metal) to the Site.
3. **Immediately** cease disposing of solid waste at an unpermitted facility.
4. **Immediately** cease burning solid waste at the Site
5. **Within 30 days** of this Order, submit to DES for approval a Scope of Work for the closing of the unpermitted solid waste facility including how all wastes will be collected, containerized, and removed; who will transport the wastes off-site; and where the wastes will be transported to. The Scope of Work shall be prepared by a qualified environmental consultant and determine the nature and extent of contamination from discharges to the environment. Include as part of the Scope of Work a schedule which details when the work will be done.
6. **Within 30 days** of this Order, submit a written status report identifying the consultant required by paragraph E.5 and provide documentation that certifies the consultant has been retained.
7. **Within 60 days** of this Order perform a hazardous waste determination on the ash and submit results to DES. A complete hazardous waste determination will require you to determine if the waste is a federal hazardous waste. Waste determined to be hazardous must be handled pursuant to the New Hampshire Hazardous Waste Rules.
8. If it is determined that the ash is a hazardous waste, ensure that the ash currently on Site is delivered to a facility authorized to handle hazardous waste, as specified in Env-Wm 511.01 and Env-Wm 507.03, via a New Hampshire registered hazardous waste transporter using an 8 part prenumbered EPA/DOT uniform hazardous waste manifest, EPA Form 8700-22 in accordance with the DES approved Scope of Work.
9. Upon DES approval of the Scope of Work and proposed schedule, implement the Scope of Work as approved and complete the removal of all solid waste and ash at the Site to a facility or facilities permitted to accept such wastes.
10. **By June 15, 2004**, remove all solid waste and ash at the Site to a facility or facilities permitted to accept such wastes in accordance with the DES approved Scope of Work.
11. Submit monthly written status reports to DES, certifying that corrective measures have been implemented in accordance with the approved Scope of Work. Submit the first report 30 days from the day you submit your scope of work and continue on a monthly basis until all work is complete. The final report shall certify that compliance has been achieved. Include in the report supporting documentation describing those measures taken to achieve compliance, copies of any written plans or proceedings developed, copies of all contracts and agreements, and **copies of disposal receipts.**

12. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Michael Galuszka
NHDES
80 Glen Road
Gorham, NH 03581
Telephone: (603) 466-5389
e-mail: mgaluszka@des.state.nh.us

F. APPEAL

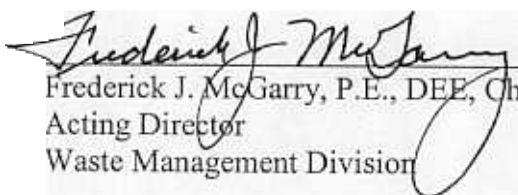
Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve William and Ann Hall of the obligation to comply with the Order.

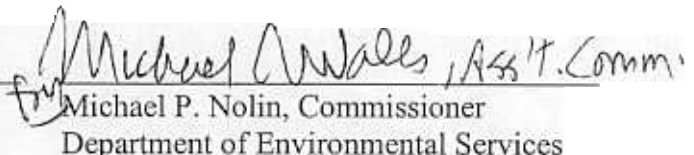
G. OTHER PROVISIONS

Please note that RSA 149-M provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Randy Howe remains obligated to comply with all applicable requirements, in particular RSA 149-M. DES will continue to monitor William and Anne Hall's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

By copy of this Order, this matter is being referred to the New Hampshire Department of Environmental Services, Air Resources Division, for investigation of possible violations of RSA 125-C.

This Order is being recorded in the Grafton County Registry of Deeds so as to run with the land.


Frederick J. McGarry, P.E., DEE, Chief Engineer
Acting Director
Waste Management Division


Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0584 3755

cc: DB/FILE/ORDER
Gretchen Rule, DES Legal Unit
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David Degler, ARD, DES
Anna Ford, WD, DES
R. Treiss, WD, DES

Jennifer Patterson, Sr. Assistant Attorney General
Richard Head, Assistant Attorney General
Town Selectman, Alexandria, NH
Police Chief, Alexandria, NH
Mary Langer, Dept. of Revenue

Enclosures: AO Fact Sheet CO-7, Copy of photo, copy of letters